

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**ANASTACIO ACOSTA,**

**Plaintiff,**

**v.**

**BNSF RAILWAY COMAPANY,**

**Defendant.**

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**CIVIL ACTION NO. 3:19-cv-166**

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**NOTICE OF REMOVAL**

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**TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:**

BNSF Railway Company (BNSF) notifies the Court of the removal of the action styled *Anastacio Acosta v. BNSF Railway Company*, Cause No. 2019-DCV-1885, filed in the 168<sup>th</sup> District Court in El Paso County, Texas (the State Court Action).

BNSF removes this case under 28 U.S.C. § 1441, as the Court has original jurisdiction since Plaintiff's cause of action arises under federal law. 28 U.S.C. § 1331.

**PROCEDURAL MATTERS**

Defendant BNSF received a courtesy copy of the State Court Action on May 22, 2019. BNSF has not received formal service of the State Court Action. In accordance with 28 U.S.C. §1446(a), the documents required to support this removal including all process, pleadings and ordered served in this action is attached as Exhibit A.

### FEDERAL QUESTION JURISDICTION

The district courts have “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. §§ 1331.

Plaintiff Acosta, a BNSF employee, seeks to enforce against BNSF arbitration Award No. 237, which was issued by Public Law Board No. 7048. *See Petition to Confirm Arbitration Award (Petition)* ¶¶ 3-4, and *Petition Exhibit B.*<sup>1</sup> (The *Arbitration Award dated March 29, 2019* is attached hereto as Exhibit C.) Such award-enforcement actions are governed by the Railway Labor Act (RLA), Section 3 First. *See* 45 USC § 153 First (p) (setting out procedures to enforce an RLA arbitration award, and providing mechanism to file such enforcement actions “in the District Court of the United States”).

Since Plaintiff Acosta plainly seeks to enforce an arbitration award governed by the RLA, this matter arises under federal law and is removable to federal court. *See* 28 U.S.C. § 1331; *see also, International Assoc. of Machinists v. Central Airlines*, 372 U.S. 682, 695-96 (1963) (holding that an award-enforcement action under the RLA was removable to federal court).

**WHEREFORE, PREMISES CONSIDERED**, Defendant hereby requests Removal of the above-referenced State Court Action to this Court, and asks the Court to issue any orders necessary to stay proceedings in the State Court Action and to assume jurisdiction over this action for all purposes.

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<sup>1</sup> Award No. 237 itself notes that the RLA governs the underlying dispute:

Public Law Board No. 7048, upon the whole record and all the evidence, finds and holds that the Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended, that the Board has jurisdiction over the dispute herein; and that the parties to the dispute have participated in accordance to the Agreement that established the Board.

*See Petition Exhibit A at 1.*

Respectfully submitted,

**RAY Mc CHRISTIAN & JEANS, P.C.**

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Dated: June 18, 2019.

By: 

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Attorney for Defendant,

**BNSF RAILWAY COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on the above date a true and correct copy of the foregoing instrument was delivered to counsel of record as follows:

**Via Email & Fax**

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